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UNCLAS SECTION 01 OF 05 BRASILIA 000231

SIPDIS

DEPARTMENT FOR WHA/PPC, DRL/ILCSR, WHA/BSC  
DEPARTMENT OF LABOR FOR ILAB - TINA MCCARTER AND PILAR VELASQUEZ

E.O. 12958: N/A

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SUBJECT: CHILD LABOR INFORMATION FOR TRADE AND DEVELOPMENT ACT  
(GSP) REPORT

REFS: 08 STATE 127448, McCarter-Prince email 1/26/09, USDOL's 2007  
Findings on the Worst Forms of Child Labor

¶1. Please find below answers for Brazil to questions in reftel  
questions at para nine. Per ref b, in general only new information  
not in ref C is provided below.

¶2. A) Laws and regulations proscribing the worst forms of child  
labor.

-What laws have been promulgated on child labor in the country?

Laws cited in ref C remain in force. A new child pornography took  
effect in November 2008 (see below).

-What is the country's minimum age for admission to work?

Minimum working ages cited in ref C are in effect.

-Are there exceptions to the minimum age law?

Exceptions as noted in ref C continue in effect, including  
apprenticeships and child employment under parental and guardian  
supervision in certain activities.

-What is the minimum age for admission to hazardous work, and what  
additional provisions has the country enacted regarding children's  
involvement in hazardous work?

The prohibition against employment of persons under 18 in hazardous  
work remains in effect; there is no new legislation.

- What laws have been promulgated on the worst forms of child labor,  
such as forced child labor and trafficking or child prostitution and  
pornography?

Law 11,829, approved by President Lula on November 25, 2008, amends  
Articles 240 and 241 of the Statute of Children and Adolescents to  
criminalize the acquisition, production and possession of child  
pornography; increase penalties for child pornography producers who  
are public office-holders, relatives, domestic employees, and in  
certain other relationships to the victim; and criminalize the sale  
and distribution of child pornography. Penalties under Article 240  
(producing child pornography) are four to eight years imprisonment  
and fine, increased by one third for a public official or anyone  
pretending to be one, certain relatives or people living with or  
hosting the child. Article 241 (selling or exhibiting child

pornography) carries a penalty of four to eight years imprisonment and fine. Article 241-A (distribution of child pornography) is punishable by three to six years imprisonment and fine; Article 241-B (acquisition, possession and storage of child pornography) is punishable by one to four years imprisonment and fine; Article 241-C (simulating child pornography by adulteration, montage, etc. of images) is punishable by one to three years imprisonment and fine; Article 241-D (enticing, instigating, etc. a child or adolescent to perform a lewd act) is punishable by one to three years imprisonment and fine. The new child pornography went from legislative concept to signed bill in eight months with the help of Mission's Resident Legal Adviser. President Lula signed the law at the World Congress III Against Sexual Exploitation of Children and Adolescents in Rio de Janeiro before an international audience of law enforcement and judiciary professionals and others.

-Please specify what worst forms are prohibited and describe penalties for violations.

Decree 6.481 of June 12, 2008, established the worst forms of child labor. (Per ref B, DOL already is familiar with decree 6.481.)

Mission notes that ref C states, "The law establishes that introducing a child of 14 to 18 years to prostitution is punishable by imprisonment of 3 to 8 years, and in cases of violence or fraud, 4 to 10 years," sourcing Articles 227-229 of the Brazilian Penal Code. In addition, Article 244-A of the Statute of Children and Adolescents can be applied for offenses against persons under the age of 14, and provides for imprisonment of four to 10 years and fine for inducing a child or adolescent into prostitution, can be applied to any owner, manager or person responsible for the place

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where the crime occurred, and also requires the removal of any operating license for the location. In addition to the penalty cited in ref C for trafficking in persons that applies to adolescents from ages 14 to 18, Article 239 of the Statute of Children and Adolescents, which applies to offenses against anyone 18 and under, provides a penalty of four to six years imprisonment and fine for removing or helping to remove a child from Brazil without observing the proper formalities or with a profit-making purpose; if violence is used, the penalty increases to six to eight years imprisonment, plus any additional penalty for the violence employed. Article 241 of the same Statute prohibits pedophilia and mandates a prison penalty from two to six years plus fine.

-What is the country's minimum age for military recruitment and/or involvement in armed conflict?

Eighteen years of age.

-If the country has ratified ILO Convention 182 on the Worst Forms of Child Labor, has it developed a list of occupations considered to be worst forms of child labor, as called for in article 4 of the Convention?

Yes, as described above in Decree 6.481.

¶3. B) Regulations for implementation and enforcement of proscriptions against the worst forms of child labor.

-What legal remedies are available to government agencies that enforce child labor and worst forms of child labor laws (civil fines, criminal penalties, court orders), and are they adequate to punish and deter violations?

Nothing new to report.

-To what extent are violations investigated and addressed?

During 2008 authorities discovered and removed from work 5767 children and adolescents (excluding apprentices), down from 7812 in 2007. 299,013 firms were inspected, down from 357,788 in 2007. Source: [www.mte.gov.br \(forward slash\) fisca\\_trab \(forward slash\) est\\_resu\\_fisc\\_jan\\_dez\\_acumulo2008.pdf](http://www.mte.gov.br/fisca_trab/est_resu_fisc_jan_dez_acumulo2008.pdf)

Inspections increasingly target informal employment, in part due to the declining number of children working in the formal sector. The 2007 PNAD states that there was a drop in the number of working children between the ages of 5 and 15, ages at which work is illegal, from 2,934,000 in the 2005 PNAD to 2,718,000 in the 2006 PNAD. (2007 PNAD, p. 126). Employers who violate Brazil's child labor laws are subject to monetary fines, but fines are rarely applied because inspectors typically negotiate agreements with employers instead. Labor inspections of children in the workplace are often driven by complaints brought by workers, teachers, unions, NGOs, and the media. Inspections of the informal sector are often difficult to undertake due to the fact that inspectors are unable to enter private homes and farms, where much of child labor takes place. In most cases, inspectors attempt to reach agreements and to have employers desist from labor law violations before levying fines. As a result, few employers are fined for employing children.

Labor inspectors from the Ministry of Labor and Employment (MLE) often work closely with prosecutors from the Federal Labor Prosecutor's Office (Ministerio Publico do Trabalho-MPT), an independent agency responsible for prosecuting labor infractions. MPT prosecutors may investigate cases of child labor, bring civil charges against violators, and levy fines, but cannot bring criminal prosecutions. The MPT and the Federal Public Ministry, which is responsible for criminal prosecutions, do not work together closely or in any systematic way, and thus criminal prosecutions are not part of Brazil's strategy against child labor. The MPT has a national commission to fight child labor. The commission includes 50 prosecutors and focuses on strategic areas including sexual exploitation, apprenticeships, trash collecting by children, and work in a family setting.

-What level of resources does the government devote to investigating child labor and worst forms of child labor cases throughout the

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country?

Mission will provide this information by cable in March.

- How many inspectors does the government employ to address child labor issues?

Mission will provide details from the Ministry of Labor and as soon as available.

- How many police or other law enforcement officials address worst forms of child labor issues?

Responsibility for addressing worst forms of child labor is dispersed among several government ministries and agencies, including the Ministry of Labor, Public Ministry for Labor, the Ministry of Justice, and federal and local police. We are unaware of records that detail the manpower working specifically on child labor.

- How many child labor investigations have been conducted over the past year and how many have resulted in fines, penalties, or convictions?

During 2008 authorities discovered and removed from work 5767 children and adolescents (excluding apprentices), down from 7812 in 2007. In 2008, MLE officials inspected 299,013 firms, down from 357,788 in 2007. Mission is not certain why this drop occurred but several factors could account for it. The MTE Mobile Groups have given increased priority to inspections of farms in order to free more victims of forced labor, who tend to be almost all adult males (UNODC Global Trafficking in Persons Report, 2009, p. 157). According to Ministry of Labor statistics, during 2008 the Mobile Groups conducted 154 inspections on 290 farms and freed 5,016 forced labor workers. In 2007, the MTE conducted 116 inspections on 206 farms and freed 5,999 forced labor workers. This effort could have reduced inspections of workplaces more likely to use child labor. Another reason could be an increase in school attendance, probably attributable to the Bolsa Familia program. According to the 2007

PNAD, the percentage of children aged 4-6 attending pre-school or school has increased in recent years. School attendance is now nearly universal throughout Brazil. Also, school attendance at all ages is strongly correlated to family income (2007 PNAD, pp. 123-124), which has been rising in Brazil.

With regard to fines, penalties and convictions, it is currently very difficult to gather this information because resources are dispersed throughout several parts of the federal government. Post will continue to try to gather, consolidate and provide information as available. We do not expect complete data ever to be available.

- How many investigations into worst forms of child labor violations have been conducted over the past year and how many have resulted in prosecutions and convictions?

According to MLE statistics, the MLE conducted 986 inspections directly related to child labor in the reporting period. Mission will provide prosecutions and convictions data soon.

-Has the government provided awareness-raising and/or training activities for officials charged with enforcing child labor laws or worst forms of child labor laws?

The Brazilian government continues to conduct seminars and training program for law enforcement and judicial staff who address child labor, trafficking in persons, sex tourism, forced labor, and worst forms of child labor. For example, in November 2008 the government of Brazil conducted a training seminar on trafficking in persons in Brasilia for an audience of 200, including Federal Police agents, Federal Highway Police, and others. It included the participation of specialists from Italy, the Netherlands, Argentina, and Spain. The Ninosul program, noted in ref C, continues, and Brazil plays a leading role. Mission's Resident Legal Adviser organized a training seminar in Espirito Santo state on combating child pornography immediately after President Lula signed the new child pornography law last November. Four hundred law enforcement agents, judges and prosecutors received information about the new law. The seminar ensured that all parts of the justice sector were ready, able and

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willing to enforce the new law. Speakers included the chairman of the Brazilian Senate investigative committee on child pornography and officials from the Departments of Homeland Security and Justice.

¶4. C) Whether there are social programs specifically designed to prevent and withdraw children from the worst forms of child labor.

-What initiatives has the government supported to prevent children from entering exploitative work situations, to withdraw children engaged in such labor, and to advocate on behalf of children involved in such employment and their families?

Under the PRONASCI (National Program for Public Security with Citizenship) initiative, a broad program launched in August 2007 to reduce crime, protect at-risk populations, better integrate marginalized groups, improve police and judicial services, and take other steps (94 actions in all), young children and adolescents, including street children, receive vocational training, educational, sports and recreational opportunities, and other types of assistance, including a cash stipend of R\$100 (USD 40) a month for a year while they are in the Protejo ("I protect") program. As of February 2009, PRONASCI had been introduced in the Federal District and 19 of Brazil's 26 states, including those with the largest populations, highest crime rates and worst poverty such as Rio de Janeiro, Pernambuco, Maranhao, Sao Paulo, Bahia, and others. PRONASCI's overall budget (2007-2012) is projected at R\$ 6.707 billion (about USD 2.8 billion). According to Ministry of Justice estimates, various PRONASCI programs should reach 425,000 youths between the ages of 15 and 29.

In mid-2006, the Federal Highway Police instituted an intensive training program in an effort to combat internal trafficking of persons more effectively. During 2007, Federal Highway Patrol Officers in the cities of Brasilia, Sao Paulo, Natal, Belem,

Teresina, Vitoria, Parana, Boa Vista, Sao Luis, Manaus, Maceio, and Macapa participated in anti-TIP training. Class sizes of 60-95 officers ranking from junior patrolmen to senior inspectors participated in the two-day courses. This training continued in 2008, and Federal Police and U.S. Immigration and Customs Enforcement personnel conducted joint training, including trafficking in persons, in 2008.

15. D) Does the country have a comprehensive policy or national program of action on child labor or specific forms of child labor?

Brazil's program of action on child labor continues to be the PETI, as described in ref C.

- Does the country incorporate child labor specifically as an issue to be addressed in poverty reduction, development, educational or other social policies or programs, such as Poverty Reduction Strategy Papers, etc?

Yes, under the PETI, and less directly under PRONASCI, which includes vocational training to prepare young people to enter the formal economy, as well as the Bolsa Familia (Family Stipend) program, as described in ref C. Other government social programs such as Luz Para Todos (Light for all, an electrification program) and Inclusao Digital (Digital Inclusion) contribute to child development in marginalized and rural areas by making possible night classes, evening sporting events, and making the Internet, computers and computer training accessible to poor families.

- If so, to what degree has the country implemented the policy and/or program of action and achieved its goals and objectives?

Information to be provided.

-Is education free in law and in practice? Is education compulsory in law and in practice?

Yes. In some isolated areas access can be difficult and as a result some children do not attend or attend partially.

16. E) Is the country making continual progress toward eliminating the worst forms of child labor?

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Yes, through its anti-trafficking in persons efforts, its Mobile Groups to combat forced labor, and social programs such as Bolsa Familia, the PRONASCI Protejo program, and others.

- What are the specific sectors/work activities/goods in which children work and how has this changed over the past year? Please note where possible any relevant characteristics about the children involved including gender, ethnic group, religion, age, etc.

On sectors/work activities/goods: There is no change from information presented last year in ref C.

Relevant characteristics remain unchanged. The source cited in ref C, Mapa de indicativos do trabalho da criancas e do adolescente (2005), is still the latest publication on the subject available from the Ministry of Labor.

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